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SERIES I No. 24

# OFFICIAL GOVERNMENT OF GOA GAZETTE



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## GOVERNMENT OF GOA

Department of Finance

Debt Management Division

### Press Communique

1-45-96-Fin(DMU)PF

### GOA STATE DEVELOPMENT LOAN, 2011

It is notified for general information that the outstanding balance of 12% Goa State

Development Loan 2011 issued in terms of the Government of Goa, Finance Department Notification No. 1-45-91-Fin (Bud)2T dated September, 26, 1991 will be repaid at par on **October 3, 2011** with interest due up to and including October 2, 2011. In the event of a holiday being declared on the aforesaid date by any State Government under the Negotiable Instruments Act, 1881, the loan will be repaid by the paying offices in that State on the previous working day. **No interest will accrue on the loan from and after October 3, 2011.**

2. As per sub-regulation 24 (2) and 24 (3) of Government Securities Regulations, 2007 payment of maturity proceeds to the registered holder of Government Security held in the form of Subsidiary General Ledger or Constituent Subsidiary General Ledger account or Stock Certificate shall be made by a pay order incorporating the relevant particulars of his bank account or by credit to the account of the holder in any bank having facility of receipt of funds through electronic means. For the purpose of making payment in respect of the securities, the original subscriber or the subsequent holders of such a Government Securities, as the case may be, shall submit to the Bank or Treasury and Sub-Treasury or branch of State Bank of India, or its subsidiary banks where they are enfaced/registered for payment of interest, as the case may be, the relevant particulars of their bank account.

3. However, in the absence of relevant particulars of bank account/mandate for receipt of funds through electronic means, to facilitate repayment on the due date, holders of 12% Goa State Development Loan 2011, should tender their securities at the Public Debt Office, 20 days in advance. The securities should be tendered for repayment, duly discharged on the reverse thereof as under:—

**“Received the Principal due on the  
Certificate”**

4. It should be particularly noted that at places where the treasury work is done by a branch of the State Bank of India or any of its associate banks, the securities, if they are in the form of Stock Certificates, should be tendered at the branch of the bank concerned and not at the Treasury or Sub-treasury.

5. Holders who wish to receive payment at places other than those where the securities have been enfaced for payment should send them duly discharged to the Public Debt Office concerned by Registered and Insured Post. The Public Debt Office will make payment by issuing a draft payable at any Treasury/Sub-Treasury or branch of State Bank of India or its associate banks conducting Government Treasury work in the State of Goa.

*S. Kumaraswamy*, Secretary (Finance).

Porvorim, 7th September, 2011.



Department of Industries



**Notification**

3/40/2003-IND(Part)

Whereas vide Notification No. 3/40/2003-IND(Part) dated 31-12-2008 published in the Official Gazette Series I No. 42 dated 15-1-2009. The Government of Goa notified the “Preferential Purchase Incentives to Micro and Small Enterprises Scheme, 2008”.

And whereas the Government of Goa deems it expedient to amend the said scheme as follows:—

1. *Short title and commencement.*— (1) This Scheme may be called the “Preferential Purchase Incentives to Micro and Small Enterprises (Amendment) Scheme, 2011”.

(2) It shall come in force from the date of its publication in the Official Gazette.

2. *Amendment of clause 5.*— In clause 5 of the “Preferential Purchase Incentives to Micro and Small Enterprises Scheme, 2008”, (hereinafter referred to as the “Principal Scheme”).

(i) the clause 5 is substituted, namely:—

"5. *Eligibility.*— Only those Micro & Small Enterprises having turnover not exceeding Rs. 10 crores per annum for the preceding 3 financial years and acknowledged with Entrepreneurs Memorandum Part-II by the Director of Industries, Trade and Commerce shall be eligible for the benefit under this scheme".

This has been issued with the concurrence of Finance (Exp.) Department vide their U. O. No. 1417320 dated 17-6-2011.

By order and in the name of the Governor of Goa.

*Hanumant T. Toraskar*, Under Secretary (Industries).

Porvorim, 8th September, 2011.



Department of Law & Judiciary

Legal Affairs Division

#### Notification

10/2/2010-LA/205

The Constitution (Ninety-fifth Amendment) Act, 2009 which has been passed by Parliament and assented to by the President of India on 18-1-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 19-1-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

## THE CONSTITUTION (NINETY-FIFTH AMENDMENT) ACT, 2009

AN

ACT

*further to amend the Constitution of India.*

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Constitution (Ninety-fifth Amendment) Act, 2009.

(2) It shall come into force on the 25th day of January, 2010.

2. *Amendment of article 334.*— In article 334 of the Constitution, for the words "sixty years", the words "seventy years" shall be substituted.

#### Notification

10/2/2010-LA/169

The Trade Marks (Amendment) Act, 2010 (Central Act No. 40 of 2010), which has been passed by Parliament and assented to by the President of India on 21-9-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 22-9-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

THE TRADE MARKS (AMENDMENT)  
ACT, 2010

AN

ACT

*to amend the Trade Marks Act, 1999.*

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Trade Marks (Amendment) Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 11.*— In section 11 of the Trade Marks Act, 1999 (hereinafter referred to as the principal Act), in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

“(a) a registered trade mark or an application under section 18 bearing an earlier date of filing or an international registration referred to in section 36E or convention application referred to in section 154 which has a date of application earlier than that of the trade mark in question, taking account, where appropriate, of the priorities claimed in respect of the trade marks.”.

3. *Amendment of section 21.*— In section 21 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any person may, within four months from the date of the advertisement or re-advertisement of an application for registration, give notice in writing in the prescribed manner and on payment of such fee as may be prescribed, to the Registrar, of opposition to the registration.”.

4. *Amendment of section 23.*— In section 23 of the principal Act, in sub-section (1), after the words “register the said trade mark”, the words “within eighteen months of the filing of the application” shall be inserted.

5. *Insertion of new Chapter IVA.*— After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

‘CHAPTER IVA

Special Provisions Relating to Protection of Trade Marks through International Registration under the Madrid Protocol

36A. *Application of Act in case of international registration under Madrid Protocol.*— The provisions of this Chapter shall apply to international applications and international registrations under the Madrid Protocol.

36B. *Definitions.*— In this Chapter, unless the context otherwise requires,—

(a) “application”, in relation to a Contracting State or a Contracting Organisation, means an application made by a person who is a citizen of, or is domiciled in, or has a real and effective industrial or commercial establishment in, that Contracting State or a State which is a member of that Contracting Organisation, as the case may be.

*Explanation.*— For the purposes of this clause, “real and effective industrial or commercial establishment” means and includes any establishment where some *bona fide* industrial or commercial activity takes place and need not necessarily be the principal place of business;

(b) “basic application” means an application for the registration of a trade mark filed under section 18 and which is used as a basis for applying for an international registration;

(c) “basic registration” means the registration of a trade mark under section 23 and which is used as a basis for applying for an international registration;

(d) “Common Regulations” means the Regulations concerning the implementation of the Madrid Protocol;

(e) “Contracting Organisation” means a Contracting Party that is an inter-governmental organisation;

(f) “Contracting Party” means a Contracting State or Contracting Organisation party to the Madrid Protocol;

(g) “Contracting State” means a country party to the Madrid Protocol;

(h) “international application” means an application for international registration or for extension of the protection resulting from an international registration to any Contracting Party made under the Madrid Protocol;

(i) “International Bureau” means the International Bureau of the World Intellectual Property Organisation;

(j) “international registration” means the registration of a trade mark in the register of the International Bureau effected under the Madrid Protocol;

(k) “Madrid Agreement” means the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on the 14th day of April, 1891, as subsequently revised and amended;

(l) “Madrid Protocol” means the Protocol relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on the 27th day of June, 1989, as amended from time to time.

36C. *Trade Marks Registry to deal with international applications.*— Notwithstanding anything contained in sub-section (3) of section 5, an international application shall be dealt with by the head office of the Trade Marks Registry or such branch office of the Registry, as the Central Government may, by notification in the Official Gazette, specify.

36D. *International application originating from India.*— (1) Where an application for the registration of a trade mark has been made under section 18 or a trade mark has been registered under section 23, the applicant or the registered proprietor may make an international application on the form prescribed by the Common Regulations for international registration of that trade mark.

(2) A person holding an international registration may make an international application on the form prescribed by the Common Regulations for extension of the protection resulting from such registration to any other Contracting Party.

(3) An international application under sub-section (1) or sub-section (2) shall designate the Contracting Parties where the protection resulting from the international registration is required.

(4) The Registrar shall certify in the prescribed manner that the particulars appearing in the international application correspond to the particulars appearing, at the time of the certification, in the application under section 18 or the registration under section 23, and shall indicate the date and number of that application or the date and number of that registration as well as the date and number of the application from which that registration resulted, as the case may be, and shall within the prescribed period, forward the international application to the International Bureau for registration, also indicating the date of the international application.



(5) Where at any time before the expiry of a period of five years of an international registration, whether such registration has been transferred to another person or not, the application under section 18 or the registration under section 23, as the case may be, has been withdrawn or cancelled or has expired or has been finally refused in respect of all or some of the goods or services listed in the international registration, the protection resulting from such international registration shall cease to have effect:

Provided that where an appeal is made against the decision of registration and an action requesting for withdrawal of application or an opposition to the application has been initiated before the expiry of the period of five years of an international registration, any final decision resulting into withdrawal, cancellation, expiration or refusal shall be deemed to have taken place before the expiry of five years of the international registration.

(6) The Registrar shall, during the period of five years beginning with the date of international registration, transmit to the International Bureau every information referred to in sub-section (5).

(7) The Registrar shall notify the International Bureau the cancellation to be effected to an international registration keeping in view the current status of the basic application or the basic registration, as the case may be.

36E. *International registrations where India has been designated.*— (1) The Registrar shall, after receipt of an advice from the International Bureau about any international registration where India has been designated, keep a record of the particulars of that international registration in the prescribed manner.

(2) Where, after recording the particulars of any international registration referred to

in sub-section (1), the Registrar is satisfied that in the circumstances of the case the protection of trade mark in India should not be granted or such protection should be granted subject to conditions or limitations or to conditions additional to or different from the conditions or limitations subject to which the international registration has been accepted, he may, after hearing the applicant if he so desires, refuse grant of protection and inform the International Bureau in the prescribed manner within eighteen months from the date on which the advice referred to in sub-section (1) was received.

(3) Where the Registrar finds nothing in the particulars of an international registration to refuse grant of protection under sub-section (2), he shall within the prescribed period cause such international registration to be advertised in the prescribed manner.

(4) The provisions of sections 9 to 21 (both inclusive), 63 and 74 shall apply *mutatis mutandis* in relation to an international registration as if such international registration was an application for registration of a trade mark under section 18.

(5) When the protection of an international registration has not been opposed and the time for notice of opposition has expired, the Registrar shall within a period of eighteen months of the receipt of advice under sub-section (1) notify the International Bureau its acceptance of extension of protection of the trade mark under such international registration and, in case the Registrar fails to notify the International Bureau, it shall be deemed that the protection has been extended to the trade mark.

(6) Where a registered proprietor of a trade mark makes an international registration of that trade mark and designates India, the international

registration from the date of the registration shall be deemed to replace the registration held in India without prejudice to any right acquired under such previously held registration and the Registrar shall, upon request by the applicant, make necessary entry in the register referred to in sub-section (1) of section 6.

(7) A holder of international registration of a trade mark who designates India and who has not been extended protection in India shall have the same remedy which is available to any person making an application for the registration of a trade mark under section 18 and which has not resulted in registration under section 23.

(8) Where at any time before the expiry of a period of five years of an international registration, whether such registration has been transferred to another person or not, the related basic application or, as the case may be, the basic registration in a Contracting Party other than India has been withdrawn or cancelled or has expired or has been finally refused in respect of all or some of the goods or services listed in the international registration, the protection resulting from such international registration in India shall cease to have effect.

36F. *Effects of international registration.*— (1) From the date of the international registration of a trade mark where India has been designated or the date of the recording in the register of the International Bureau about the extension of the protection resulting from an international registration of a trade mark to India, the protection of the trade mark in India shall be the same as if the trade mark had been registered in India.

(2) The indication of classes of goods and services given by the applicant shall not bind the Registrar with regard to the determination of the scope of the protection of the trade mark.

36G. *Duration and renewal of international registration.*— (1) The international registration of a trade mark at the International Bureau shall be for a period of ten years and may be renewed for a period of ten years from the expiry of the preceding period.

(2) Subject to payment of a surcharge prescribed by the rules, a grace period of six months shall be allowed for renewal of the international registration.’.

6. *Substitution of new section for section 45.*— For section 45 of the principal Act, the following section shall be substituted, namely:—

“45. *Registration of assignments and transmissions.*— (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application, register him as the proprietor of the trade mark in respect of the goods or services in respect of which the assignment or transmission has effect, and shall cause particulars of such assignment or transmission to be entered on the register.

(2) The Registrar may require the applicant to furnish evidence or further evidence in proof of title only where there is a reasonable doubt about the veracity of any statement or any document furnished.

(3) Where the validity of an assignment or transmission is in dispute between the parties, the Registrar may refuse to register the assignment or transmission until the rights of the parties have been determined by a competent court and in all other cases the Registrar shall dispose of the application within the prescribed period.

(4) Until an application under sub-section (1) has been filed, the assignment or transmission shall be ineffective against

a person acquiring a conflicting interest in or under the registered trade mark without the knowledge of assignment or transmission.”.

7. *Omission of Chapter X.*— Chapter X of the principal Act shall be omitted.

8. *Amendment of section 150.*— In section 150 of the principal Act, in sub-section (1), for the word “applications”, the words “applications, international applications” shall be substituted.

9. *Amendment of section 157.*— In section 157 of the principal Act, in sub-section (2),—

(a) for clause (vii), the following clause shall be substituted, namely:—

“(vii) the manner of giving a notice of opposition and the fee payable for such notice under sub-section (1) and sending counter-statement under sub-section (2) and submission of evidence and the time therefor under sub-section (4) of section 21;”;

(b) after clause (ix), the following clauses shall be inserted, namely:—

“(ixa) the time within which the international application is to be forwarded to the International Bureau and the manner of certifying the particulars by the Registrar under sub-section (4) of section 36D;

(ixb) the manner of keeping a record of particulars of an international registration under sub-section (1) of section 36E;

(ixc) the manner of informing the International Bureau under sub-section (2) of section 36E;

(ixd) the manner of advertising the international registration and the time within which the international registration shall be advertised under sub-section (3) of section 36E;”;

(c) after clause (xiii), the following clause shall be inserted, namely:—

“(xiiia) the period within which the Registrar shall dispose of an application under sub-section (3) of section 45;”;

(d) clauses (xxvi), (xxvii) and (xxviii) shall be omitted.

10. *Power of Central Government to remove difficulties.*— (1) Notwithstanding anything contained in section 156 of the principal Act, if any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing such difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

### Notification

10/2/2010-LA/167

The Foreign Contribution (Regulation) Act, 2010 (Central Act No. 42 of 2010), which has been passed by Parliament and assented to by the President of India on 26-09-2010 and published in the Gazette of India, Extraordinary Part II, Section I dated 27-09-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.



# THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

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## THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010

AN

ACT

*to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

### CHAPTER I

#### Preliminary

1. *Short title, extent, application and commencement.*— (1) This Act may be called the Foreign Contribution (Regulation) Act, 2010.

(2) It extends to the whole of India, and it shall also apply to—

(a) citizens of India outside India; and

(b) associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Definitions.*— (1) In this Act, unless the context otherwise requires,—

(a) “association” means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860, or not, and any other organisation, by whatever name called;

(b) “authorised person in foreign exchange” means an authorised person referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999; 42 of 1999.

(c) “bank” means a banking company as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(d) “candidate for election” means a person who has been duly nominated as a candidate for election to any Legislature;

(e) “certificate” means certificate of registration granted under sub-section (3) of section 12;

(f) “company” shall have the meaning assigned to it under clause (17) of section 2 of the Income-tax Act, 1961; 43 of 1961.

(g) “foreign company” means any company or association or body of individuals incorporated outside India and includes—

(i) a foreign company within the meaning of section 591 of the Companies Act, 1956; 1 of 1956.

(ii) a company which is a subsidiary of a foreign company;

(iii) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause (ii);

(iv) a multi-national corporation.

*Explanation.*— For the purposes of this sub-clause, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,—

(a) has a subsidiary or a branch or a place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories;

(h) “foreign contribution” means the donation, delivery or transfer made by any foreign source,—

(i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, is not more than such sum as may be specified from time to time, by the Central Government by the rules made by it in this behalf;

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and 42 of 1956. includes any foreign security as defined in clause (o) of section 2 of the Foreign Exchange Management Act, 1999. 42 of 1999.

*Explanation 1.*— A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

*Explanation 2.*— The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be

deemed to be foreign contribution within the meaning of this clause.

*Explanation 3.*— Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;

(i) “foreign hospitality” means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment;

(j) “foreign source” includes,—

(i) the Government of any foreign country or territory and any agency of such Government;

(ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multi-national corporation referred to in sub-clause (iv) of clause (g);

(vi) a company within the meaning of the Companies Act, 1956, and more than one-half of 1 of 1956. the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:—

- (A) the Government of a foreign country or territory;
- (B) the citizens of a foreign country or territory;
- (C) corporations incorporated in a foreign country or territory;
- (D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;
- (E) foreign company;
- (vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;
- (viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
- (ix) a society, club or other association of individuals formed or registered outside India;
- (x) a citizen of a foreign country;
- (k) "Legislature" means—
- (A) either House of Parliament;
- (B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;
- (C) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963; 20 of 1963.
- (D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991; 1 of 1992.
- (E) Municipality as defined in clause (e) of article 243P of the Constitution;
- (F) District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;
- (G) Panchayat as defined in clause (d) of article 243 of the Constitution; or
- (H) any other elective body as may be notified by the Central Government;
- (I) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;
- (m) "person" includes—
- (i) an individual;
- (ii) a Hindu undivided family;
- (iii) an association;
- (iv) a company registered under section 25 of the Companies Act, 1956; 1 of 1956.
- (n) "political party" means—
- (i) an association or body of individual citizens of India—
- (A) to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951; or 43 of 1951.
- (B) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;
- (ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No. 56/J&K/02, dated the 8th August, 2002, as in force for the time being;
- (o) "prescribed" means prescribed by rules made under this Act;

(p) “prescribed authority” means an authority specified as such by rules made by the Central Government under this Act;

(q) “registered newspaper” means a newspaper registered under the Press and Registration of Books Act, 1867; 25 of 1867.

(r) “relative” has the meaning assigned to it in clause (41) of section 2 of the Companies Act, 1956; 1 of 1956.

(s) “scheduled bank” shall have the meaning assigned to it under clause (e) of section 2 of the Reserve Bank of India Act, 1934; 2 of 1934.

(t) “subsidiary” and “associate” shall have the meanings, respectively assigned to them in the Companies Act, 1956; 1 of 1956.

(u) “trade union” means a trade union registered under the Trade Unions Act, 1926; 16 of 1926.

(2) Words and expressions used herein and not defined in this Act but defined in the Representation of the People Act, 1950 or 43 of 1950. the Representation of the People Act, 1951 or the Foreign Exchange Management Act, 1999 shall have 43 of 1951. 42 of 1999. the meanings respectively assigned to them in those Acts.

## CHAPTER II

### Regulation of Foreign Contribution and Foreign Hospitality

3. *Prohibition to accept foreign contribution.*— (1) No foreign contribution shall be accepted by any—

(a) candidate for election;

(b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;

(c) Judge, Government servant or employee of any corporation or any other

body controlled or owned by the Government;

(d) member of any Legislature;

(e) political party or office-bearer thereof;

(f) organisation of a political nature as may be specified under sub-section (1) of section 5 by the Central Government;

(g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 or any other mode of mass communication; 21 of 2000.

(h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

*Explanation.*— In clause (c) and section 6, the expression “corporation” means a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956. 1 of 1956.

(2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1), or both.

(b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or



foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.

(3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in section 9, shall deliver such currency—

(a) to any person other than a person for which it was received, or

(b) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received.

4. *Persons to whom section 3 shall not apply.*— Nothing contained in section 3 shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him, subject to the provisions of section 10,—

(a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or

(b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or

(c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or

(d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or

(e) from his relative; or

(f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or 42 of 1999.

(g) by way of any scholarship, stipend or any payment of like nature:

Provided that in case any foreign contribution received by any person specified under section 3, for any of the purposes other than those specified under this section, such contribution shall be deemed to have been accepted in contravention of the provisions of section 3.

5. *Procedure to notify an organisation of a political nature.*— (1) The Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisations with the activities of any political party, by an order published in the Official Gazette, specify such organisation as an organisation of a political nature not being a political party, referred to in clause (f) of sub-section (1) of section 3:

Provided that the Central Government may, by rules made by it, frame the guidelines specifying the ground or grounds on which an organisation shall be specified as an organisation of a political nature.

(2) Before making an order under sub-section (1), the Central Government shall give

the organisation in respect of whom the order is proposed to be made, a notice in writing informing it of the ground or grounds, on which it is proposed to be specified as an organisation of political nature under that sub-section.

(3) The organisation to whom a notice has been served under sub-section (2), may, within a period of thirty days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organisation as an organisation under sub-section (1):

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the organisation was prevented by sufficient cause from making the representation within thirty days.

(4) The Central Government may, if it considers it appropriate, forward the representation referred to in sub-section (3) to any authority to report on such representation.

(5) The Central Government may, after considering the representation and the report of the authority referred to in sub-section (4), specify such organisation as an organisation of a political nature not being a political party and make an order under sub-section (1) accordingly.

(6) Every order under sub-section (1) shall be made within a period of one hundred and twenty days from the date of issue of notice under sub-section (2):

Provided that in case no order is made within the said period of one hundred and twenty days, the Central Government shall, after recording the reasons therefor, make an order under sub-section (1) within a period of sixty days from the expiry of the said period of one hundred and twenty days.

**6. Restriction on acceptance of foreign hospitality.**— No member of a Legislature or

office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality:

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

**7. Prohibition to transfer foreign contribution to other person.**— No person who—

(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution,

shall transfer such foreign contribution to any other person unless such other person is also registered and had been granted the certificate or obtained the prior permission under this Act:

Provided that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.

**8. Restriction to utilise foreign contribution for administrative purpose.**— (1) Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution,—

(a) shall utilise such contribution for the purposes for which the contribution has been received:

Provided that any foreign contribution or any income arising out of it shall not be used for speculative business:

Provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section;

(b) shall not defray as far as possible such sum, not exceeding fifty per cent. of such contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding fifty per cent. of such contribution may be defrayed with prior approval of the Central Government.

(2) The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses referred to in sub-section (1) shall be calculated.

9. *Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases.*— The Central Government may—

(a) prohibit any person or organisation not specified in section 3, from accepting any foreign contribution;

(b) require any person or class of persons, not specified in section 6, to obtain prior permission of the Central Government before accepting any foreign hospitality;

(c) require any person or class of persons not specified in section 11, to furnish intimation within such time and in such manner as may be prescribed as to the amount of any foreign contribution received by such person or class of persons as the case may be, and the source from which and the manner in which such contribution was

received and the purpose for which and the manner in which such foreign contribution was utilised;

(d) without prejudice to the provisions of sub-section (1) of section 11, require any person or class of persons specified in that sub-section to obtain prior permission of the Central Government before accepting any foreign contribution;

(e) require any person or class of persons, not specified in section 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received:

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) public interest; or

(iii) freedom or fairness of election to any Legislature; or

(iv) friendly relations with any foreign State; or

(v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

10. *Power to prohibit payment of currency received in contravention of the Act.*— Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such

person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 shall, so far as may be, apply 37 of 1967. to, or in relation to, such article or currency or security and references in the said sub-sections to moneys, securities or credits shall be construed as references to such article or currency or security.

### CHAPTER III

#### Registration

11. *Registration of certain persons with Central Government.*— (1) Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government:

Provided that any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976, as it stood 49 of 1976. immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

(2) Every person referred to in sub-section (1) may, if it is not registered with the Central

Government under that sub-section, accept any foreign contribution only after obtaining the prior permission of the Central Government and such prior permission shall be valid for the specific purpose for which it is obtained and from the specific source:

Provided that if the person referred to in sub-sections (1) and (2) has been found guilty of violation of any of the provisions of this Act or the Foreign Contribution (Regulation) Act, 1976, the 49 of 1976. unutilised or unreceived amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the Central Government.

(3) Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, specify—

(i) the person or class of persons who shall obtain its prior permission before accepting the foreign contribution; or

(ii) the area or areas in which the foreign contribution shall be accepted and utilised with the prior permission of the Central Government; or

(iii) the purpose or purposes for which the foreign contribution shall be utilised with the prior permission of the Central Government; or

(iv) the source or sources from which the foreign contribution shall be accepted with the prior permission of the Central Government.

12. *Grant of certificate of registration.*— (1) An application by a person, referred to in section 11 for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and along with such fee, as may be prescribed.

(2) On receipt of an application under sub-section (1), the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of

the particulars specified in that form, reject the application.

(3) If on receipt of an application for grant of certificate or giving prior permission and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in sub-section (4) are satisfied, it may, ordinarily within ninety days from the date of receipt of application under sub-section (1), register such person and grant him a certificate or give him prior permission, as the case may be, subject to such terms and conditions as may be prescribed:

Provided that in case the Central Government does not grant, within the said period of ninety days, a certificate or give prior permission, it shall communicate the reasons therefor to the applicant:

Provided further that a person shall not be eligible for grant of certificate or giving prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.

(4) The following shall be the conditions for the purposes of sub-section (3), namely:—

(a) the person making an application for registration or grant of prior permission under sub-section (1),—

(i) is not fititious or *benami*;

(ii) has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;

(iii) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;

(iv) has not been found guilty of diversion or mis-utilisation of its funds;

(v) is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;

(vi) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;

(vii) has not contravened any of the provisions of this Act;

(viii) has not been prohibited from accepting foreign contribution;

(b) the person making an application for registration under sub-section (1) has undertaken reasonable activity in its chosen filed for the benefit of the society for which the foreign contribution is proposed to be utilised;

(c) the person making an application for giving prior permission under sub-section (1) has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised;

(d) in case the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him;

(e) in case the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;

(f) the acceptance of foreign contribution by the person referred to in sub-section (1) is not likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) the security, strategic, scientific or economic interest of the State; or

(iii) the public interest; or

(iv) freedom or fairness of election to any Legislature; or



(v) friendly relation with any foreign State; or

(vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;

(g) the acceptance of foreign contribution referred to in sub-section (1),—

(i) shall not lead to incitement of an offence;

(ii) shall not endanger the life or physical safety of any person.

(5) Where the Central Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant:

Provided that the Central Government may not communicate the reasons for refusal for grant of certificate or for not giving prior permission to the applicant under this section in cases where is no obligation to give any information or documents or records or papers under the Right to Information Act, 2005.

22 of 2005.

(6) The certificate granted under sub-section (3) shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.

13. *Suspension of certificate.*— (1) Where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in sub-section (1) of section 14, it is necessary so to do, it may, by order in writing, suspend the certificate for such period not exceeding one hundred and eighty days as may be specified in the order.

(2) Every person whose certificate has been suspended shall—

(a) not receive any foreign contribution during the period of suspension of certificate:

Provided that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify;

(b) utilise, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.

14. *Cancellation of certificate.*— (1) The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if—

(a) the holder of the certificate has made a statement in, or in relation to, the application of the grant of registration or renewal thereof, which is incorrect or false; or

(b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or

(c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or

(d) the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or

(e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

(2) No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

(3) Any person whose certificate has been cancelled under this section shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.

15. *Management of foreign contribution of person whose certificate has been cancelled.*—

(1) The foreign contribution and assets created out of the foreign contribution in the custody of every person whose certificate has been cancelled under section 14 shall vest in such authority as may be prescribed.

(2) The authority referred to in sub-section (1) may, if it considers necessary and in public interest, manage the activities of the person referred to in that sub-section for such period and in such manner, as the Central Government may direct and such authority may utilise the foreign contribution or dispose of the assets created out of it in case adequate funds are not available for running such activity.

(3) The authority referred to in sub-section (1) shall return the foreign contribution and the assets vested upon it under that sub-section to the person referred to in the said sub-section if such person is subsequently registered under this Act.

16. *Renewal of certificate.*— (1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

(2) The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.

(3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant:

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder.

#### CHAPTER IV

##### Accounts, Intimation, Audit and Disposal of Assets, etc.

17. *Foreign contribution through scheduled bank.*— (1) Every person who has been granted a certificate or given prior permission under section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate:

Provided that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him:

Provided further that no funds other than foreign contribution shall be received or deposited in such account or accounts.

(2) Every bank or authorised person in foreign exchange shall report to such authority as may be specified—

(a) prescribed amount of foreign remittance;

(b) the source and manner in which the foreign remittance was received; and

(c) other particulars,

in such form and manner as may be prescribed.

18. *Intimation.*— (1) Every person who has been granted a certificate or given prior approval under this Act shall give, within such

time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

(2) Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under sub-section (1).

19. *Maintenance of accounts.*— Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed,—

(a) an account of any foreign contribution received by him; and

(b) a record as to the manner in which such contribution has been utilised by him.

20. *Audit of accounts.*— Where any person who has been granted a certificate or given prior permission, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Central Government may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or any other officer or authority or organisation, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable

hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

21. *Intimation by candidate for election.*— Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government or prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by him.

22. *Disposal of assets created out of foreign contribution.*— Where any person who was permitted to accept foreign contribution under this Act, ceases to exist or has become defunct, all the assets of such person shall be disposed of in accordance with the provisions contained in any law for the time being in force under which the person was registered or incorporated, and in the absence of any such law, the Central Government may, having regard to the nature of assets created out of foreign contribution received under this Act, by notification, specify that all such assets shall be disposed off by such authority, as it may specify, in such manner and procedure as may be prescribed.

## CHAPTER V

### Inspection, Search and Seizure

23. *Inspection of accounts or records.*— If the Central Government has, for any reason, to be recorded in writing, any ground to suspect that any provision of this Act has been or is being, contravened by—

(a) any political party; or

- (b) any person; or
- (c) any organisation; or
- (d) any association,

it may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or such other officer or authority or organisation, as it may think fit (hereinafter referred to as the inspecting officer), to inspect any account or record maintained by such political party, person, organisation or association, as the case may be, and thereupon every such inspecting officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of inspecting the said account or record.

24. *Seizure of accounts or records.*— If, after inspection of an account or record referred to in section 23, the inspecting officer has any reasonable cause to believe that any provision of this Act or of any other law relating to foreign exchange has been, or is being, contravened, he may seize such account or record and produce the same before the court, authority or tribunal in which any proceeding is brought for such contravention:

Provided that the authorised officer shall return such account or record to the person from whom it was seized if no proceeding is brought within six months from the date of such seizure for the contravention disclosed by such account or record.

25. *Seizure of article or currency or security received in contravention of the Act.*— If any gazetted officer, authorised in this behalf by the Central Government by general or special order, has any reason to believe that any person has in his possession or control any article exceeding the value specified in sub-clause (i) of clause (h) of sub-section (1) of section 2 or currency or security whether Indian or foreign, in relation to which any provision of this Act has been or is being, contravened, he may seize such article or currency or security.

26. *Disposal of seized article or currency or security.*— (1) The Central Government, may,

having regard to the value of article or currency or security, their vulnerability to theft or any relevant consideration, by notification, specify such article or currency or security which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner, as the Central Government may, from time to time, determine after following the procedure hereinafter specified.

(2) The article or currency or security seized shall be forwarded without unnecessary delay to such officer as may be specified.

(3) Where any article or currency or security has been seized and forwarded to such officer, the officer referred to in sub-section (1), shall prepare an inventory of such article or currency or security containing such details relating to their description, value or such other identifying particulars as the officer referred to in that sub-section may consider relevant to the identity of the article or the currency or security and make an application to any Magistrate for the purposes of certifying the correctness of the inventory so prepared.

(4) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, as certified by the Magistrate, as primary evidence in respect of such offence.

(6) Every officer acting under sub-section (3) shall forthwith report the seizure to the Court of Session or Assistant Sessions Judge having jurisdiction for adjudging the confiscation under section 29.

27. *Seizure to be made in accordance with Act 2 of 1974.*— The provisions of the Code of Criminal Procedure, 1973 shall apply in so far as they are not inconsistent with the provisions of this Act to all seizures made under this Act.

## CHAPTER VI

## Adjudication

28. *Confiscation of article or currency or security obtained in contravention of the Act.*— Any article or currency or security which is seized under section 25 shall be liable to confiscation if such article or currency or security has been adjudged under section 29 to have been received or obtained in contravention of this Act.

29. *Adjudication of confiscation.*— (1) Any confiscation referred to in section 28 may be adjudged—

(a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and

(b) subject to such limits as may be prescribed, by such officer, not below the rank of an Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) When an adjudication under sub-section (1) is concluded by the Court of Session or Assistant Sessions Judge, as the case may be, the Sessions Judge or Assistant Sessions Judge may make such order as he thinks fit for the disposal by confiscation or delivery of seized article or currency or security, as the case may be, to any person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

30. *Procedure for confiscation.*— No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency or security has been seized.

## CHAPTER VII

## Appeal and Revision

31. *Appeal.*— (1) Any person aggrieved by any order made under section 29 may prefer an appeal,—

(a) where the order has been made by the Court of Session, to the High Court to which such Court is subordinate; or

(b) where the order has been made by any officer specified under clause (b) of sub-section (1) of section 29, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made,

within one month from the date of communication to such person of the order:

Provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

(2) Any organisation referred to in clause (f) of sub-section (1) of section 3, or any person or association referred to in section 6 or section 9, aggrieved by an order made in pursuance of section 5 or by an order of the Central Government refusing to give permission under this Act, or by any order made by the Central Government under sub-section (2) or sub-section (4) of section 12, or sub-section (1) of section 14, as the case may be, may, within sixty days from the date of such order, prefer an appeal against such order to the High Court within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.

(3) Every appeal preferred under this section shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, shall, as far as may be, apply thereto as they apply to an appeal from an original decree.

32. *Revision of orders by Central Government.*— (1) The Central Government



may, either of its own motion or on an application for revision by the person registered under this Act, call for and examine the record of any, proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as it thinks fit.

(2) The Central Government shall not of its own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the person referred to in sub-section (1), the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Central Government may, if it is satisfied that such person was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Central Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such person has not waived his right of appeal or an appeal has been filed under this Act.

(5) Every application by such person for revision under this section shall be accompanied by such fee, as may be prescribed.

*Explanation.*— An order by the Central Government declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to such person.

## CHAPTER VIII

### Offences and Penalties

33. *Making of false statement, declaration or delivering false accounts.*— Any person, subject to this Act, who knowingly,—

(a) gives false intimation under sub-section (c) of section 9 or section 18; or

(b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact,

shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both.

34. *Penalty for article or currency or security obtained in contravention of section 10.*— If any person, on whom any prohibitory order has been served under section 10, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit. 2 of 1974.

35. *Punishment for contravention of any provision of the Act.*— Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule or order made thereunder, shall be punished with

imprisonment for a term which may extend to five years, or with fine or with both.

36. *Power to impose additional fine where article or currency or security is not available for confiscation.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying a person, who, in relation to any article or currency or security, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency or security liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act.

37. *Penalty for offences where no separate punishment has been provided.*— Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

38. *Prohibition of acceptance of foreign contribution.*— Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under section 35 or section 37, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

39. *Offences by companies.*— (1) Where an offence under this Act or any rule or order

made thereunder has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm, society, trade union or other association of individuals; and

(b) “director”, in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

40. *Bar on prosecution of offences under the Act.*— No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

41. *Composition of certain offences.*— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) Nothing in sub-section (1) shall apply to an offence committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

*Explanation.*— For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Every officer or authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.

(4) Every application for the compounding of an offence shall be made to the officer or authority referred to in sub-section (1) in such form and manner along with such fee as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(6) Every officer or authority referred to in sub-section (1), while dealing with a proposal

for the compounding of an offence for a default in compliance with any provision of this Act which requires by an individual or association or its officer or other employee to obtain permission or file or register with, or deliver or send to, the Central Government or any prescribed authority any return, account or other document, may, direct, by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order.

## CHAPTER IX

### Miscellaneous

42. *Power to call for information or document.*— Any inspecting officer referred to in section 23 who is authorised in this behalf by the Central Government may, during the course of any inspection of any account or record maintained by any political party, person, organisation or association in connection with the contravention of any provision of this Act,—

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or rule or order made thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant to such inspection;

(c) examine any person acquainted with the facts and circumstances of the case related to the inspection.

43. *Investigation into cases under the Act.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act may also be investigated into by such authority as the Central Government may specify in this behalf and the authority so specified shall have all the powers which an

officer-in-charge of a police station has while making an investigation into a cognizable offence.

44. *Returns by prescribed authority to Central Government.*— The prescribed authority shall furnish to the Central Government at such time and in such form and manner such returns and statements as may be prescribed.

45. *Protection of action taken in good faith.*— No suit or other legal proceedings shall lie against the Central Government or the authority referred to in section 44 or any of its officers in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or, any rule or order made thereunder.

46. *Power of Central Government to give directions.*— The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of this Act.

47. *Delegation of powers.*— The Central Government may, by notification, direct that any of its powers or functions under this Act, except power to make rule under section 48, shall, in relation to such matters and subject to such conditions, if any, may be specified in the notification, be exercised or discharged also by such authority as may be specified.

48. *Power to make rules.*— (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the value of the article which may be specified under sub-clause (1) of clause (h) of sub-section (1) of section 2;

(b) the authority which may be specified under clause (p) of sub-section (1) of section 2;

(c) acceptance or retention of gift or presentation under clause (d) of section 4;

(d) guidelines specifying the ground or grounds on which an organisation may be specified as an organisation of political nature under sub-section (1) of section 5;

(e) the activities or business which shall be construed as speculative business under the proviso to clause (a) of sub-section (1) of section 8;

(f) the elements and the manner in which the administrative expenses shall be calculated under sub-section (2) of section 8;

(g) the time within which and the manner in which any person or class of persons or an association may be required to furnish intimation regarding the amount of foreign contribution received under clause (c) of section 9;

(h) the time within which and the manner in which any person or class of persons may be required to furnish intimation regarding foreign hospitality under clause (e) of section 9;

(i) the manner in which the copy of the order of the Central Government shall be served upon any person under section 10;

(j) the form and manner in which the application for grant of certificate of registration or giving of prior permission under sub-section (1) of section 12;

(k) the fee to be accompanied by the application under sub-section (1) of section 12;

(l) the terms and conditions for granting a certificate or giving prior permission under clause (g) of sub-section (4) of section 12;

(m) the manner of utilising the foreign contribution under clause (b) of sub-section (2) of section 13;

(n) the authority with whom the foreign contribution to be vested under sub-section (1) of section 15;

(o) the period within which and the manner in which the foreign contribution shall be managed under sub-section (2) of section 15;

(p) the form and manner in which the application for a renewal of certificate of registration shall be made under sub-section (2) of section 16;

(q) the fee to be accompanied by the application for renewal of certificate under sub-section (2) of section 16;

(r) the prescribed amount of foreign remittance, the form and manner in which the foreign remittance received by every back or authorised person in foreign exchange shall be reported under sub-section (2) of section 17;

(s) the time within which and the manner in which the person who has been granted certificate of registration or given prior permission under this Act shall give intimation under section 18;

(t) the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilised shall be maintained under section 19;

(u) the time within which and the manner in which a candidate for election shall give intimation under section 21;

(v) the manner and procedure to be followed in disposing of the assets under section 22;

(w) the limits subject to which any confiscation may be adjudged under clause (b) of sub-section (1) of section 29;

(x) the fee to be accompanied along with every application for revision under sub-section (5) of section 32;

(y) the form and manner for making of an application for compounding of an offence and the fee therefor under sub-section (4) of section 41;

(z) the form and manner in which and the time within which returns and statements to be furnished by the prescribed authority under section 44;

(za) any other matter which is required to be, or may be, prescribed.

49. *Orders and rules to be laid before Parliament.*— Every order made under section 5 and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

50. *Power to exempt in certain cases.*— If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or association or organisation (not being a political party), or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

51. *Act not to apply to certain Government transactions.*— Nothing contained in this Act shall apply to any transaction between the



Government of India and the Government of any foreign country or territory.

52. *Application of other laws not barred.*—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

53. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

54. *Repeal and saving.*— (1) The Foreign Contribution (Regulation) Act, 1976 (hereafter referred to as 49 of 1976. the repealed Act) is hereby repealed.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any organisation of a political nature, not being a political party, to whom the prior permission was granted under section 5 of the repealed Act, shall continue to be the organisation of a political nature, not being a political party, under clause (f) of sub-section (1) of section 3 of this Act, till such permission is withdrawn by the Central Government;

(c) permission to accept foreign hospitality granted under section 9 of the repealed Act shall be deemed to be the permission granted under section 6 of this Act until such permission is withdrawn by the Central Government;

(d) any association prohibited from accepting any foreign contribution under clause (a) of section 10 of the repealed Act, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to be an association prohibited from accepting any foreign contribution under section 9 of this Act;

(e) permission obtained under clause (b) of section 10 of the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be the permission until such permission is withdrawn by the Central Government;

(f) any order issued under section 12 of the repealed Act shall be deemed to be an order issued under section 10 of this Act;

(g) any order issued under section 31 of the repealed Act exempting any association or any individual shall be deemed to be an order under section 50 of this Act till such order is varied or revoked.

(3) Save as provided in sub-section (2), mention of particular matters in that sub-section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with 10 of 1897. regard to the effect of repeal.

### Notification

10/2/2010-LA/171

The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2010 (Central Act No. 37 of 2010), which has been passed by Parliament and assented to by the President of India on 21-9-2010

and published in the Gazette of India, Extraordinary, Part II, Section I dated 22-9-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

THE SALARY, ALLOWANCES AND  
PENSION OF MEMBERS OF  
PARLIAMENT (AMENDMENT)  
ACT, 2010

AN

ACT

*further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.*

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2010.

(2) Save as otherwise provided, it shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. *Amendment of section 3.*— In the Salary, Allowances and Pension of Members of Parliament Act, 1954 30 of 1954. (hereinafter referred to as the principal Act), in section 3,—

(i) for the words “a salary at the rate of sixteen thousand rupees per mensem”, the words “a salary at the rate of fifty thousand rupees per mensem” shall be substituted;

(ii) for the words “an allowance at the rate of one thousand rupees for each day”,

the words “an allowance at the rate of two thousand rupees for each day” shall be substituted;

(iii) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that the rates of salary specified in this section shall be applicable from the 18th day of May, 2009.”.

3. *Amendment of section 4.*— In the principal Act, in section 4, in sub-section (1),—

(i) in sub-clause (ii) of clause (c), for the words “a road mileage at the rate of thirteen rupees per kilometre”, the words “a road mileage at the rate of sixteen rupees per kilometre” shall be substituted;

(ii) for the first proviso, the following proviso shall be substituted, namely:—

“Provided that when Parliament is in session and the spouse of a Member, if any, performs such journey or part thereof by road, unaccompanied by such Member, in respect of which such spouse has been allowed to travel by air or partly by air and partly by rail from the usual place of residence of the Member to Delhi or back under sub-section (2) of section 6B, the road mileage prescribed under this sub-clause shall be allowed to such Member for such journey or part thereof, subject to the condition that the total number of such journeys shall not exceed eight in a year;”;

(iii) the third proviso shall be omitted.

4. *Amendment of section 6B.*— In the principal Act, in section 6B, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Notwithstanding anything contained in clause (ii) of sub-section (1), the spouse of a Member shall be entitled to travel,—

(a) any number of times, by railway in first class air-conditioned or executive class in any train from the usual place of residence of the Member to Delhi and back; and

(b) when Parliament is in session, by air or partly by air and partly by rail, from the usual place of residence of the Member to Delhi or back, subject to the condition that the total number of such air journeys shall not exceed eight in a year:

Provided that where any such journey or part thereof is performed by air from any place other than the usual place of residence of the Member to Delhi and back, then, such spouse shall be entitled to an amount equal to the fare by air for such journey or part thereof, as the case may be, or to the amount equal to the journey performed by air from the usual place of residence of the Member to Delhi and back, whichever is less.”.

5. *Amendment of section 8A.*— In the principal Act, in section 8A, for sub-section (1), the following sub-section shall be substituted, namely:—

‘(1) With effect from the 18th day of May, 2009, there shall be paid a pension of twenty thousand rupees per mensem to every person who has served for any period as a Member of the Provisional Parliament or either House of Parliament:

Provided that where a person has served as a Member of the Provisional Parliament or either House of Parliament for a period exceeding five years, there shall be paid to him an additional pension of fifteen hundred rupees per mensem for every year served in excess of five years.

*Explanation.*— For the purpose of this sub-section, “Provisional Parliament” shall include the body which functioned as the Constituent Assembly of the Dominion of India immediately before the commencement of the Constitution.’.

6. *Amendment of section 8B.*— In the principal Act, in section 8B, for the words “one lakh rupees”, the words “four lakh rupees” shall be substituted.

### Notification

10/2/2010-LA/176

The Indian Medical Council (Amendment) Act, 2010 (Central Act No. 32 of 2010), which has been passed by Parliament and assented to by the President of India on 4-9-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 4-9-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

### THE INDIAN MEDICAL COUNCIL (AMENDMENT) ACT, 2010

AN

ACT

*further to amend the Indian Medical Council Act, 1956.*

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Indian Medical Council (Amendment) Act, 2010.

(2) It shall be deemed to have come into force on the 15th day of the May, 2010.

2. *Insertion of new sections 3A, 3B and 3C.*— After section 3 of the Indian Medical Council Act, 1956 (hereinafter referred to as 102 of 1956. the principal Act), the following sections shall be inserted, namely:—

'3A. *Power of Central Government to supersede the Council and to constitute a Board of Governors.*— (1) On and from the date of commencement of the Indian Medical Council (Amendment) Act, 2010, the Council shall stand superseded and the President, Vice-President and other members of the Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

(2) The Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Council under sub-section (1).

(3) Upon the supersession of the Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors constituted under sub-section (4) shall exercise the powers and perform the functions of the Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute the Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of medicine and medical education, and who may be either nominated members or members, *ex officio*, to be appointed by the Central Government, one of whom shall be named by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, *ex officio*, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Council.

(7) Two-third of the members of the Board of Governors shall constitute the quorum for its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board of Governors; or

(b) any irregularity in the procedure of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for decision shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

(10) The Chairperson and the other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. *Certain modifications of the Act.*— During the period when the Council stands superseded,—

(a) the provisions of this Act shall be construed as if for the word "Council", the words "Board of Governors" were substituted;

(b) the Board of Governors shall—

(i) exercise the powers and discharge the functions of the Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Council shall be construed as references to the Board of Governors;

(ii) grant independently permission for establishment of new medical colleges or opening a new or higher course of study or training or increase

in admission capacity in any course of study or training referred to in section 10A or giving the person or college concerned a reasonable opportunity of being heard as provided under section 10A without prior permission of the Central Government under that section, including exercise of the power to finally approve or disapprove the same; and

(iii) dispose of the matters pending with the Central Government under section 10A upon receipt of the same from it.

3C. *Power of Central Government to give directions.*— (1) Without prejudice to the provisions of this Act, the Board of Governors or the Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Board of Governors or the Council after its reconstitution shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is a matter of policy or not shall be final.'

3. *Repeal and saving.*— (1) The Indian Medical Council (Amendment) Ordinance, 2010, is hereby repealed.

Ord. 2 of  
2010.

(2) Notwithstanding the repeal of the Indian Medical Council (Amendment) Ordinance, 2010, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Ord. 2 of  
2010.

## Notification

10/2/2010-LA/178

The Personal Laws (Amendment) Act, 2010 (Central Act No. 30 of 2010), which has been passed by Parliament and assented to by the President of India on 31-8-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 1-9-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

## THE PERSONAL LAWS (AMENDMENT) ACT, 2010

AN

ACT

*further to amend the Guardians and Wards Act, 1890 and the Hindu Adoptions and Maintenance Act, 1956.*

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

### CHAPTER I

#### Preliminary

1. *Short title.*— This Act may be called the Personal Laws (Amendment) Act, 2010.

### CHAPTER II

Amendment to the Guardians and Wards Act, 1890

2. *Amendment of section 19 of Act 8 of 1890.*— In section 19 of the Guardians and Wards Act, 1890, for clause (b), the following clause shall be substituted, namely:—

“(b) of a minor, other than a married female, whose father or mother is living and is not, in the opinion of the court, unfit to be guardian of the person of the minor, or”.



## CHAPTER III

Amendments to the Hindu Adoptions and  
Maintenance Act, 1956

3. *Substitution of new section for section 8.*— In the Hindu Adoptions and Maintenance Act, 1956 78 of 1956. (hereafter in this Chapter referred as the Hindu Adoptions and Maintenance Act), for section 8, the following section shall be substituted, namely:—

“8. *Capacity of a female Hindu to take in adoption.*— Any female Hindu who is of sound mind and is not a minor has the capacity to take a son or daughter in adoption:

Provided that, if she has a husband living, she shall not adopt a son or daughter except with the consent of her husband unless the husband has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.”.

4. *Amendment of section 9.*— In the Hindu Adoptions and Maintenance Act, in section 9,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Subject to the provisions of sub-section (4), the father or the mother, if alive, shall have equal right to give a son or daughter in adoption:

Provided that such right shall not be exercised by either of them save with the consent of the other unless one of them has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.”;

(ii) sub-section (3) shall be omitted.

## Notification

10/2/2010-LA/182

The Securities and Insurance Laws (Amendment and Validation) Act, 2010 (Central Act No. 26 of 2010), which has been passed by Parliament and assented to by the President of India on 20-8-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 23-8-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

THE SECURITIES AND INSURANCE  
LAWS (AMENDMENT AND  
VALIDATION) ACT, 2010

AN

ACT

*further to amend the Reserve Bank of India Act, 1934, the Insurance Act, 1938, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992.*

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

## CHAPTER I

## Preliminary

1. *Short title and commencement.*— (1) This Act may be called the Securities and Insurance Laws (Amendment and Validation) Act, 2010.

(2) It shall be deemed to have come into force on the 18th day of June, 2010.

## CHAPTER II

Amendment to the Reserve Bank of India  
Act, 1934

2. *Insertion of new Chapter IIIE in Act 2 of 1934.*— After Chapter IIID of the Reserve Bank of India Act, 1934, the following Chapter shall be inserted, namely:—

## “CHAPTER III E

## Joint Mechanism

45Y. *Joint Mechanism*.— (1) Notwithstanding anything contained in this Act or the Securities and Exchange Board of India Act, 1992 or any other law for the time being in force, if any difference of opinion arises as to whether—

(i) any instrument, being derivative referred to in clause (a) or money market instrument referred to in clause (b) or repo referred to in clause (c) or reverse repo referred to in clause (d) or securities referred to in clause (e) of section 45U of this Act; or

(ii) any instrument, being policy of life insurance under the Insurance Act, 1938, or the rules or regulations made thereunder, or, scrips or any other securities referred to in sub-clauses (i), (ia), (ib), (ic), (id), (ie), (ii), (iia) and (iii) of clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.

is hybrid or composite instrument, having a component of money market investment or securities market instrument or a component of insurance or any other instrument referred to in clause (i) or clause (ii) and falls within the jurisdiction of the Reserve Bank of India or the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 or the Insurance Regulatory and Development Authority established under section 3 of the Insurance Regulatory and Development Authority Act, 1999

or the Pension Fund Regulatory and Development Authority constituted by the Resolution of the Government of India number F. No. 1(6)2007-PR, dated the 14th November, 2008, such difference of opinion shall be referred to a Joint Committee consisting of the following, namely:—

(a) the Union Finance Minister — *ex officio* Chairperson;

(b) the Governor, Reserve Bank of India — *ex officio* Vice-Chairperson;

(c) the Secretary, Department of Economic Affairs in the Ministry of Finance, Government of India — *ex officio* Member;

(d) the Secretary, Department of Financial Services in the Ministry of Finance, Government of India — *ex officio* Member;

(e) the Chairperson, Insurance Regulatory and Development Authority — *ex officio* Member;

(f) the Chairman, Securities and Exchange Board of India — *ex officio* Member;

(g) the Chairperson, Pension Fund Regulatory and Development Authority — *ex officio* Member.

(2) The Secretary, Department of Financial Services in the Ministry of Finance, Government of India shall be the convener of the meetings of the Joint Committee referred to in sub-section (1).

(3) In case of any difference of opinion referred to in sub-section (1), any Member of the Joint Committee referred to in clauses (b), (e), (f) or (g) of that sub-section may make a reference to the Joint Committee.

(4) The Joint Committee shall follow such procedure as it may consider expedient and give, within a period of three months from

the date of reference made under sub-section (3), its decisions thereon to the Central Government.

(5) The decision of the Joint Committee shall be binding on the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority and the Pension Fund Regulatory and Development Authority.”.

### CHAPTER III

#### Amendment to the Insurance Act, 1938

3. *Amendment of section 2 of Act 4 of 1938.*— In the Insurance Act, 1938, in section 2, after clause (11), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 9th day of April, 2010, namely:—

‘*Explanation.*— For the removal of doubts, it is hereby declared that “life insurance business” shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause (9) of this section.’.

### CHAPTER IV

#### Amendment to the Securities Contracts (Regulation) Act, 1956

4. *Amendment of section 2 of Act 42 of 1956.*— In the Securities Contracts (Regulation) Act, 1956, in section 2, in clause (h), after sub-clause (*id*), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 9th day of April, 2010, namely:—

‘*Explanation.*— For the removal of doubts, it is hereby declared that “securities” shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which

provides a combined benefit risk on the life of the persons and investment by such persons and issued by an insurer referred to in clause (9) of section 2 of the Insurance Act, 1938.’. 4 of 1938.

### CHAPTER V

#### Amendment to the Securities and Exchange Board of India Act, 1992

5. *Amendment of section 12 of Act 15 of 1992.*— In the Securities and Exchange Board of India Act, 1992, in section 12, in sub-section (1B), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 9th day of April, 2010, namely:—

“*Explanation.*— For the removal of doubts, it is hereby declared that, for the purposes of this section, a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment besides the component of insurance issued by an insurer.”.

### CHAPTER VI

#### Miscellaneous

6. *Validation.*— Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of section 2 of the Insurance Act, 1938 or section 2 4 of 1938. of the Securities Contracts (Regulation) Act, 1956 or section 12 42 of 1956. of the Securities and Exchange Board of India Act, 1992, as 15 of 1992. amended by this Act, shall have and shall be deemed to always have effect for all purposes as if the provisions of the said Acts, as amended by this Act, had been in force at all material times and accordingly any unit linked

insurance policy or scrips or any such instrument or unit, by whatever name called, issued or purported to have been issued at any time before the 9th day of April, 2010, shall be deemed and always deemed to have been validly issued and shall not be called in question in any court of law or other authority solely on the ground that it was issued without a certificate of registration under any law for the time being in force or without following any procedure under any law for the time being in force, by an insurer or any other person.

7. *Repeal and savings.*— (1) The Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 is hereby repealed. Ord. 3 of 2010.

(2) Notwithstanding such repeal, anything done or any action taken under the Reserve Bank of India Act, 1934 or the Insurance Act, 1938 or the Securities Contracts (Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. 2 of 1934. 4 of 1938. 42 of 1956. 15 of 1992.

### Notification

10/2/2010-LA/175

The Jharkhand Panchayat Raj (Amendment) Act, 2010 (Central Act No. 33 of 2010), which has been passed by Parliament and assented to by the President of India on 04-9-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 4-9-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

## THE JHARHKAND PANCHAYAT RAJ (AMENDMENT) ACT, 2010

AN

ACT

*further to amend the Jharkhand Panchayat Raj Act, 2001.*

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—

(1) This Act may be called the Jharkhand Panchayat Raj (Amendment) Act, 2010.

(2) It extends to the whole of the State of Jharkhand.

(3) It shall be deemed to have come into force on the 15th day of April, 2010.

2. *Amendment of sections 17, 36 and 51.*— In the Jharkhand Panchayat Raj Act, 2001 (hereinafter referred to as the principal Act),—

(a) in section 17,—

(i) in Part (A), in sub-sections (3) and (4), for the words, figures and letters “at least 1/3rd”, the words “not less than fifty per cent.” shall be substituted;

(ii) in Part (B),—

(A) in sub-section (3), for the word, figures and letters “the 1/3rd”, the words “not less than fifty per cent.” shall be substituted;

(B) in sub-section (4), for the figures and letters “1/3rd”, the word “not less than fifty per cent.” shall be substituted;

(b) in section 36,—

(i) in Part (A), in sub-sections (3) and (4), for the word “one-third”, the words “fifty per cent.” shall be substituted;

(ii) in Part (B), in sub-sections (3) and (4), for the word “one-third”, the words “not less than fifty per cent.” shall be substituted;

(c) in section 51,—

(i) in Part (A), in sub-sections (3) and (4), for the word “one-third”, the words “fifty per cent.” shall be substituted;

(ii) in Part (B), in sub-sections (3) and (4), for the word “one-third”, the words “not less than fifty per cent.” shall be substituted.

3. *Amendment of section 21.*— In section 21 of the principal Act,—

(a) in Part (A),—

(i) in the heading, the words “and Up-Mukhia” shall be omitted;

(ii) for sub-section (1), the following sub-section shall be substituted, namely:—

‘(1) The following procedure shall be followed in respect of reservation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes, namely:—

“(i) In General Areas (Non-Scheduled Areas), the posts of Mukhia shall be reserved for the candidates belonging to the Scheduled Castes and the Scheduled Tribes in proportion of their population and such posts shall be allotted by rotation in the prescribed manner to different constituencies by the State Election Commission.

(ii) In case of less than fifty per cent. reservation of posts for the Scheduled Castes and the Scheduled Tribes candidates, rest of the posts shall be reserved for the Other Backward Classes in proportion of their population but in any case the total number of posts reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes shall not exceed more than fifty per cent. of the total posts.

(iii) Out of the total posts reserved under clauses (i) and (ii) of this sub-section, not less than fifty per cent. of the posts shall be reserved for the women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

(iv) Not less than fifty per cent. of the total posts of Mukhia (including the posts reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) shall be reserved for women candidates and such posts shall be duly allotted by rotation by the State Election Commission in different Gram Panchayats of the Panchayat Samiti.”;

(b) in Part (B),—

(i) in the heading, the words “and Up-Mukhia” shall be omitted;

(ii) in sub-section (ii), for the word “one-third”, the words “fifty per cent.” shall be substituted.

4. *Amendment of section 22.*— In section 22 of the principal Act, for clause (d), the following clause shall be substituted, namely:—

“(d) the posts of Up-Mukhia in General Areas as well as in the Scheduled Areas shall be kept unreserved or shall be dealt with in accordance with the provisions made by the State Government.”.

5. *Amendment of section 40.*— In section 40 of the principal Act,—

(a) in Part (A), for sub-section (1), the following sub-section shall be substituted, namely:—

‘(1) Reservation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes for the posts of Pramukh shall be in the following manner:—



“(i) In General Areas (Non-Scheduled Areas), the total number of posts of Pramukh of the district shall be reserved for the Scheduled Castes and the Scheduled Tribes candidates in proportion of their population and such posts shall be allotted by rotation to different constituencies by the State Election Commission.

(ii) In case of less than fifty per cent. reservation of posts for the Scheduled Castes and the Scheduled Tribes candidates, the rest of the posts shall be reserved for the Other Backward Classes in proportion of their population in the area, but in any case, the posts of Pramukh reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes candidates shall not exceed fifty per cent. of the total posts.

(iii) Out of the total posts reserved under clauses (i) and (ii), not less than fifty per cent. shall be reserved for women candidates belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

(iv) Not less than fifty per cent. of the total posts of Pramukh in the district (including posts reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) shall be reserved for women candidates and such posts shall be allotted by rotation by the State Election Commission in the prescribed manner in the light of total posts of Pramukh of the district.

(v) The posts of Up-Pramukh shall be kept unreserved or shall be dealt with in accordance with the provisions made by the State Government.”;

(b) in Part (B), for the word “one-third”, the words “fifty per cent.” shall be substituted.

6. *Amendment of section 55.*— In section 55 of the principal Act,—

(a) in Part (A), for sub-section (1), the following sub-section shall be substituted, namely:—

‘(1) The following procedure shall be followed in respect of reservation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes, namely:—

“(i) In General Areas (Non-Scheduled Areas), the total number of posts of Adhyaksha of Zila Parishad shall be reserved for the Scheduled Castes and the Scheduled Tribes candidates in proportion of their population in the State and such posts shall be allotted by rotation by the State Election Commission in the prescribed manner in different constituencies:

Provided that if the total number of Adhyaksha belonging to the Scheduled Tribes in the Scheduled Areas is beyond the proportion of their population in the State, further reservation shall not be provided.

(ii) in case of less than fifty per cent. reservation of posts of Adhyaksha of Zila Parishad for the Scheduled Castes and the Scheduled Tribes candidates, rest of the vacant posts shall be reserved for the Other Backward Classes in proportion of their population in the State, but in any case the posts of Adhyaksha of Zila Parishad reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes candidates shall not exceed fifty per cent. of total posts of Adhyaksha of Zila Parishad.

(iii) Out of the total posts reserved under clauses (i) and (ii) of this sub-section, not less than fifty per cent. shall be reserved for women candidates belonging to the Scheduled Castes, the

Scheduled Tribes and the Other Backward Classes.

(iv) Not less than fifty per cent. of the total posts of Adhyaksha of Zila Parishad (including posts reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) shall be reserved for women candidates and such posts shall be allotted by rotation by the State Election Commission in the prescribed manner in the light of the total number of posts of Adhyaksha of Zila Parishad in the State.

(v) Posts of Upadhyaksha of Zila Parishad shall be kept unreserved or shall be dealt with in accordance with the provisions made by the State Government.”;

(b) in Part (B), for the word “one-third”, the words “fifty per cent.” shall be substituted.

7. *Amendment of section 66.*— In section 66 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The State Election Commission shall have discretion to initiate suitable action on examination of report submitted by Observer or on receipt of allegations of irregularities in Panchayat elections and such action may include countermanding of election, stay on election and stay on counting of votes.”.

8. *Amendment of section 67.*— In section 67 of the principal Act, in sub-section (3), after clause (ii), the following clause shall be inserted, namely:—

“(iia) For free and fair conduct of Panchayat elections, the State Election Commission, in consultation with the State Government, shall appoint General and Expenditure Observer, who shall supervise the entire election process and shall submit their report to the State Election Commission.”.

9. *Insertion of new section 68A.*— After section 68 of the principal Act, the following section shall be inserted, namely:—

“68A. *Special provision relating to interpretations.*— In case any doubt arises or inadequacy is felt in giving effect to any provision of this Act in respect of preparation of electoral rolls or conduct of elections, the provisions of the Representation of the People Act, 1950 or the Representation of the People Act, 1951 and the rules made thereunder, as the case may be, shall *mutatis mutandis* apply.”.

10. *Repeal and saving.*— (1) The Jharkhand Panchayat Raj Ord. 1 of (Amendment) Ordinance, 2010, is hereby repealed.

(2) Notwithstanding the repeal of the Jharkhand Panchayat Raj Ord. 1 of (Amendment) Ordinance, 2010, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall deemed to have been done or taken under the principal Act, as amended by this Act.

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